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BDFTE# 00000009782541

Attorney for U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT  
SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

IN RE:	§	CASE NO. 22-60466-JS-7
	§	
HAROLD EUGENE BARNES and EVA	§	
DARLENE BARNES,	§	
Debtor	§	CHAPTER 7
	§	
U.S. BANK NATIONAL	§	
ASSOCIATION, NOT IN ITS	§	
INDIVIDUAL CAPACITY BUT	§	
SOLELY AS TRUSTEE FOR THE	§	
RMAC TRUST, SERIES 2016-CTT,	§	
Movant	§	HEARING DATE: _____
	§	
v.	§	TIME: _____
	§	
HAROLD EUGENE BARNES and EVA	§	
DARLENE BARNES; DIANE	§	
CARTER, Trustee	§	
Respondents	§	JUDGE JOSHUA SEARCY

**Motion for Relief from Automatic Stay Against Property Located at**  
**2325 AN COUNTY RD 2212, PALESTINE, TX 75803 and Waiver of 30-Day Hearing**  
**Requirement**

**NOTICE**

**Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.**

**No hearing will be conducted on this Motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE shown in**

**the certificate of service unless the Court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the Court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the Court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The Court reserves the right to set a hearing on any matter.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about October 19, 2022, Debtors (hereinafter "Debtor") filed a petition for an order of relief under the Bankruptcy Code. The case was subsequently converted to a case under Chapter 7 of the Bankruptcy Code on March 01, 2023.
3. At the time of filing the Chapter 7 petition, Movant held a Note executed on November 10, 2008, by HAROLD EUGENE BARNES and EVA DARLENE BARNES in the original amount of ONE HUNDRED NINETY THOUSAND DOLLARS AND ZERO CENTS (\$190,000.00) with interest thereon at the rate of 7.000% per annum, as modified by loan modification dated November 20, 2018. A true and correct copy of the Note is attached hereto as Exhibit "A".
4. The indebtedness is secured by a Deed of Trust dated November 10, 2008 and executed by HAROLD EUGENE BARNES and EVA DARLENE BARNES on real estate with all improvements known as:

1.0 ACRES OF LAND OUT OF A 2.176 ACRE TRACT OF LAND AS DESCRIBED IN VOLUME 1097, PAGE 907 IN THE DEED RECORDS OF BRAZORIA COUNTY, TEXAS, AS SITUATED IN THE MOST NORTHERLY

CORNER OF THE WEST 67.23 ACRES OF LAND OUT OF THE L.C. DUNBAUGH SURVEY, ABSTRACT 585, OF SAID BRAZORIA COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A POINT IN THE CENTERLINE OF COUNTY ROAD 160 BEING THE MOST WESTERLY CORNER OF THE L.C. DUNBOUGH SURVEY, A-585, BRAZORIA COUNTY, TEXAS;

THENCE N 72 DEG. 07 MIN. 49 SEC. E ALONG AND WITH THE CENTERLINE OF SAID COUNTY ROAD 160, A DISTANCE OF 1005.7 FEET TO A POINT AT THE CENTER OF THE INTERSECTION OF COUNTY ROAD 160 AND COUNTY ROAD 267;

THENCE S 46 DEG. 58 MIN. 06 SEC. E ALONG AND WITH THE CENTERLINE OF SAID COUNTY ROAD 267. A DISTANCE OF 487.99 FEET TO A POINT FOR THE WEST CORNER OF THE HEREIN DESCRIBED TRACT SAME BEING THE PLACE OF BEGINNING;

THENCE N 49 DEG. 02 MIN. E AT 30.0 FEET PASS A 5/8" IRON ROD FOUND FOR REFERENCE ON THE EASTERLY RIGHT OF WAY OF SAID COUNTY ROAD 267, CONTINUING A TOTAL DISTANCE OF 291.94 FEET TO THE CENTERLINE AFOREMENTIONED COUNTY ROAD 267;

THENCE N 46 DEG. 58 MIN. 06 SEC. W, WITH SAID CENTERLINE, A DISTANCE OF 148.67 FEET TO THE PLACE OF BEGINNING AND ALSO BEING CALLED LOT 51 OF THE FINGER SUBDIVISION (AN UNRECORDED SUBDIVISION).

BEARINGS ARE REFERENCE TO A TRACT OF LAND RECORDED IN VOLUME 1771, PAGE 742 DRBC, MORE OR LESS.

NOTE: ADJOINERS ARE RECORDED IN THE FOLLOWING: VOLUME 1771, PAGE 742 DRBC AND VOLUME 1097, PAGE 907 DRBC.

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

5. Debtor have failed to maintain current the payments due under the Note and are presently in arrears for 43 payments through and including the April 15, 2023 payment.

6. The outstanding indebtedness to Movant is \$128,725.70 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

7. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

8. Debtor have failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

9. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

10. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

11. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that U.S. BANK NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2016-CTT be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ Carson Emmons

Carson Emmons

TX NO. 24112898

4004 BELT LINE ROAD SUITE 100

ADDISON , TX 75001

Facsimile: (972) 661-7725

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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on April 21, 2023, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ Carson Emmons 04/21/2023

Carson Emmons  
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ATTORNEY FOR MOVANT

**DEBTORS:**

HAROLD EUGENE BARNES  
2325 AN COUNTY ROAD 2212  
PALESTINE, TX 75803-1069

EVA DARLENE BARNES  
2325 AN COUNTY ROAD 2212  
PALESTINE, TX 75803-1069

**TRUSTEE:**

DIANE CARTER  
660 NORTH CENTRAL EXPRESSWAY  
STE 101  
PLANO, TX 75074

**US TRUSTEE:**

110 N. COLLEGE AVE  
SUITE 300  
TYLER, TX 75702

**DEBTOR'S ATTORNEY:**

MICHAEL P. WALLACE  
9399 E. STATE HWY. 204  
JACKSONVILLE, TX 75766

**PARTIES IN INTEREST:**

None

**PARTIES REQUESTING NOTICE:**

ANDERSON COUNTY  
JULIE ANNE PARSONS  
PO BOX 1269  
ROUND ROCK, TX 78680

PRA RECEIVABLES MANAGEMENT, LLC  
PO BOX 41021  
NORFOLK, VA 23541